IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.136 OF 2006
IN
SECOND APPEAL NO.1080 OF 2005

Shri Dhondu M. Nhavi @ Bode. ..Applicant.

V/s.

Shri Jagannath Ishwari Chaurasiya
& Ors. ..Respondents.

Mr.D.J.Deshmukh for applicant.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 31, 2006.

P.C. :

1. Heard. Perused the application. Merely annexing medical certificate to show that at the relevant date the advocate on record was unwell is not sufficient. The advocate on record is expected to make necessary arrangement to inform the court that on account of personal difficulty, he is not in a position to attend the court. The advocate on record cannot leave the matter to the discretion of the court and allow the matter to go by default. Counsel for the applicant submits that he in fact had instructed one of the colleague to inform the court to request the court to adjourn the matter but the said advocate filed to discharge this duty. This ground is not taken in the application as filed. By

way of indulgence the advocate on record was called upon to furnish name of that advocate, which the advocate on record declines to do. In the circumstances, the only course open for this court is to reject the application. However, as the litigant should not suffer for the mistake of advocate, the application is allowed in terms of prayer clause (a) and (b) on condition that the advocate on record to pay costs to the High Court Legal Services Committee quantified at Rs.1,000/- within one week from today, failing which, registry to proceed on assumption that this application is dismissed for non-prosecution.

2. If cost is paid within time, place this second appeal for admission as per its turn.